

REMARKS

Favorable reconsideration and allowance of the present application is respectfully requested.

Applicants initially wish to thank Examiner Befumo for the courtesy and assistance she extended during the recent telephonic interview with Applicants' representative on April 20, 2004.

Claims 1-8, 10-25, and 27-30 are currently pending in the present application, including independent claims 1, 16, and 23. Independent claim 1, for instance, is directed to a flexible laminate structure comprising a first substrate containing a thermoplastic polymer and a second substrate containing a thermoplastic polymer. As discussed in the interview, claim 1 has been amended to require that each substrate is textured and possesses elevations and depressions, the depressions being fused together to form fused portions and the elevations forming unfused portions. When textured in this manner, particles may be deposited such that they reside substantially in the elevations of the substrates. (See e.g., Fig. 1C; Fig. 6; and Appl. p. 21).

Claim 1 also requires that the unfused portions define elongated pockets that contain discrete regions of particles, the pockets having a length-to-width ratio of between about 4 to about 100. The fused portions define at least one perimeter region and at least one inner region. The inner region is bonded to an extent such that it is capable of delaminating and the perimeter region withstands substantial delamination upon the application of a force.

In the previous Office Action, claims 1 and 9-11 were provisionally rejected under the judicially-created doctrine of obvious-type double patenting as being unpatentable

over claim 1 of copending application No. 10/027,787. Without commenting on the propriety of this rejection, Applicants submit herewith a terminal disclaimer to obviate this rejection.

In the Office Action, independent claims 1, 16, and 23 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,892,535 to Bjornberg, et al. in view of U.S. Patent No. 5,411,497 to Tanzer, et al. Bjornberg, et al. is directed to absorbent pads of the type used to form incontinence pads. As correctly noted by the Examiner, Bjornberg, et al. fails to teach certain aspects of independent claims 1, 16, and 23. Nevertheless, Tanzer, et al. was cited in combination with Bjornberg, et al. in an attempt to render obvious claims 1, 16, and 23. Applicants respectfully submit that, however, that independent claims 1, 16, and 23 patentably define over Bjornberg, et al. and Tanzer, et al. For example, as discussed in the recent interview, Bjornberg, et al. fails to disclose a laminate wherein each substrate is textured and possesses elevations and depressions, the depressions being fused together to form fused portions and the elevations forming unfused portions.

Instead, Bjornberg, et al. is directed to incontinence pads formed by laminating a liquid-impervious back sheet to a liquid pervious cover sheet. Pockets are formed in the cover sheet, while the back sheet remains substantially flat. Bjornberg, et al. emphasizes the importance of this particular pad construction, noting the following:

In short, the materials of the back sheet 3, the absorbent bodies 4 and the cover sheet 7 can all be conventional; it is their arrangement and relationship to each other, as well as the method and apparatus for their assembly, that patentably characterize the present invention. (Col. 4, ll. 51-56).

During the interview, the Examiner suggested that the substantially flat back sheet of Bjornberg, et al. would “bulge out” to some degree upon the addition of particles, and thus result in a substrate that is textured and possesses elevations and depressions. However, even if such “bulging” did occur, one of ordinary skill in the art would not recognize such a structure as a “textured substrate” having elevations and depressions. For example, one embodiment of the present invention involves bonding substrates together with a roll having protrusions. (See e.g., Fig. 6). The areas at the protrusions are fused together to form textured substrates with elevations and depressions, wherein particles are substantially contained within the unfused elevations. Contrary to particles merely “bulging out”, such bonding generally requires a certain level of heat and pressure to mold and shape the substrates into a textured form. Upon cooling, the textured substrate would retain its textured form. On the other hand, a “substantially flat” sheet that only bulges upon contact with particles is not “textured” as understood in the art – i.e., it does not possess a textured form in the absence of such particles. Thus, Applicants respectfully submit that any “bulging out” of the substrate to the presence of particles simply is not a “textured substrate” based on its ordinary meaning to those skilled in the art.

The Office Action also cites Tanzer, et al. in combination with Bjornberg, et al. in an attempt to render obvious independent claims 1, 16, and 23. However, one of ordinary skill in the art would not have found it obvious to combine Bjornberg, et al. and Tanzer, et al. in the manner suggested in the Office Action. Specifically, the absorbent articles of Tanzer, et al. have an entirely different construction than the absorbent pads of Bjornberg, et al. For example, Tanzer, et al. describes a diaper 10 that includes a

topsheet 28 (preferably liquid permeable) and a backsheet 30 (preferably substantially liquid impermeable). In addition, an absorbent structure 32 is positioned between the topsheet 28 and backsheet 30. The absorbent structure 32 includes a retention portion 48, which is formed from an absorbent laminate 112 and a distribution layer 120. It is this absorbent laminate 112 that may contain the pocket regions 108 (See also, Figs. 5-7). Thus, unlike Bjornberg, et al., the construction of Tanzer, et al. is one in which the topsheet plays no role in forming the pockets and in which an absorbent structure is disposed between the backsheet and the topsheet. Accordingly, in view of the particular emphasis placed on pad construction by Bjornberg, et al., one of ordinary skill in the art would simply not have been motivated to modify Bjornberg, et al. with Tanzer, et al. in the manner suggested in the Office Action.

Further, in the Office Action, independent claims 1, 16, and 23 were also rejected under 35 U.S.C. §103(a) in view of U.S. Patent No. 5,938,650 to Baer, et al. Baer, et al. is directed to an absorbent core for absorbing liquids. As correctly noted by the Examiner, Baer, et al. fails to teach several aspects of the present claims. For instance, independent claims 1, 16, and 23 require that the length to width ratio of the pockets is between about 4 to about 100. As pointed out during the recent telephonic interview, the claimed pocket size is particularly designed to facilitate delamination while also maintaining flexibility. Nevertheless, the "Interview Summary" dated April 28, 2004 stated the following:

However, if the prior art suggests the length to width ratio which produces the desired delamination property then the property would be inherent to the prior art even if the prior art fails to recognize any advantage of said property.

Applicants respectfully submit, however, that Baer, et al. *does not suggest* the claimed length to width ratio, and its ability to facilitate the delamination of the pockets at a controlled rate and in a certain direction (e.g., width direction). The only mention of pocket size in Baer, et al. relates to the thickness of the laminate. Nowhere does Baer, et al. state or even imply that the selection of the length to width ratio within the claimed range is desirable. In any event, the absorption mechanism of Baer, et al. relies heavily on flow of liquid along three-dimensional flow channels defined by the bond lines. These bond lines generally remain in tact. (See e.g., Col. 4). Only in "some applications" does Baer, et al. "contemplate" that forces generated by the swollen SAP particles will cause disruption of a seal line, thus providing additional volume and capacity and transfer into adjacent pockets. (Col. 4, ll. 56-61). Essentially, Baer, et al. views delamination as almost a secondary result. For at least this reason, one of ordinary skill in the art would certainly not have been motivated to optimize the pocket size of Baer, et al. to actually facilitate delamination in the desired direction.

Applicants emphasize that the teachings of reference(s) must be viewed in their entirety, i.e., as a whole, to sustain a *prima facie* case of obviousness under 35 U.S.C. §103(a). In addition, the differences between a particular claim and the cited reference(s) cannot be viewed in a vacuum. Instead, the entire claimed invention must be considered as a whole. Applicants respectfully submit that, when properly viewed as a whole, there is simply no motivation to modify the cited reference(s) in an attempt to render obvious the claims 1, 16, and 23.

In addition, the above-cited references were also cited alone and/or in various combinations to reject dependent claims 2-8, 10-15, 17-22, 24-25, and 27-30.

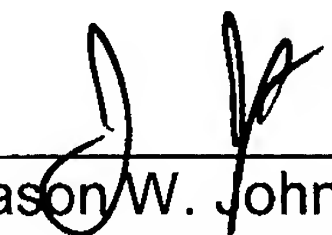
Applicants respectfully submit, however, that at least for the reasons indicated above relating to corresponding independent claims 1, 16, and 23, claims 2-8, 10-15, 17-22, 24-25, and 27-30 patentably define over the references cited. However, Applicants also note that the patentability of dependent claims 2-8, 10-15, 17-22, 24-25, and 27-30 does not necessarily hinge on the patentability of independent claims 1, 16, and 23. In particular, some or all of these claims may possess features that are independently patentable, regardless of the patentability of claims 1, 16, and 23.

As such, for at least the reasons set forth above, Applicants respectfully submit that the present claims patentably define over all of the prior art of record. It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Befumo is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this response.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

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CERTIFICATE UNDER 37 C.F.R. 3.73(b)

Applicants: Fish, et al.

Application No.: 10/027,246 Filed: December 20, 2001

Entitled: CONTROLLED DELAMINATION OF LAMINATE STRUCTURES HAVING
ENCLOSED DISCRETE REGIONS OF A MATERIAL

Kimberly-Clark Worldwide, Inc., a corporation
(Name of Assignee) (Type of Assignee, e.g. corporation,
partnership, university, government agency, etc.)

states that it is

☒ the assignee of the entire right, title and interest;

in the application identified above by virtue of:

☒ An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 012724, Frame 0040 or for which a copy thereof is attached.

The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the assignee.

June 22, 2004
Date

James B. Robinson
Signature

James B. Robinson
Typed or printed name

Agent-In-Fact
Title